

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON EDUCATION**

**Call to Order:** By **CHAIRMAN JOAN ANDERSEN**, on February 17, 2003  
at 3:00 P.M., in Room 137 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Joan Andersen, Chairman (R)  
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)  
Rep. Larry Lehman, Vice Chairman (R)  
Rep. Norman Ballantyne (D)  
Rep. Norma Bixby (D)  
Rep. Gary Branae (D)  
Rep. Nancy Fritz (D)  
Rep. Carol Gibson (D)  
Rep. Verdell Jackson (R)  
Rep. Joe McKenney (R)  
Rep. Clarice Schrumpf (R)  
Rep. Pat Wagman (R)

**Members Excused:** Rep. Bob Lawson (R)

**Members Absent:** Rep. Bob Lake (R)

**Staff Present:** Eddye McClure, Legislative Branch  
Mari Prewett, Committee Secretary

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp on these minutes appears at the end of the content it refers to.

**Committee Business Summary:**

Hearing & Date Posted: 572, 2/11/2003  
Executive Action: 573 - Incomplete

**HEARING ON HB 572**

**Sponsor:** DAVE LEWIS, HD 52, Helena

**Opening Statement by Sponsor:**

**REP. LEWIS** explained to the Committee that HB 572 was a bill which would establish the priority for braille instruction for blind students, without requiring a large amount of resources, within the public school system. **REP. LEWIS** talked about the difficulties encountered by blind students and their parents in the rural school districts. He continued that the intent of HB 572 was to acknowledge the issue, bring greater attention to the issue and try to work with the system as it exists to make access to braille, training for teachers and text books a higher priority for the school system.

**Proponents' Testimony:**

**Merle Tompkins, President, Montana Association for the Blind, Helena,** stated that her organization had been trying for several years to get legislation passed that would bring braille into the schools. She went on to say that her organization had a fund that they offered to help teachers defray the costs of learning braille so they could teach it. **Ms. Tompkins** asked that the Committee support HB 572.

**Jim Marks, Chairman, Montana Association for the Blind's Governmental Affairs, Missoula,** stated they had been working with **REP. LEWIS** to try and improve Montana's laws regarding teaching of braille for blind children in the schools. **Mr. Marks** spoke of his own experiences with blind persons that had never learned to read or write. He explained the difficulties that they faced in trying to better themselves and be self-sufficient. He pointed out that blind children, just like any other children, deserve the right to learn how to read and write. **Mr. Marks** commented on the scholarships available to teachers that are interested in learning braille and how to teach it. He urged support of HB 572.

**Jim Aldridge, Billings** spoke in support of HB 572. **Mr. Aldridge** spoke about the difficulties he had encountered when he went to college and no longer had braille books and had to use tapes for his classes. He went on to explain how much better things had gotten with the use of electronics. **Mr. Aldridge** demonstrated for the Committee how the braille embosser worked and the use of electronic text and speech equipment he had with him. He talked about the importance of literacy and how much easier it was with the use of electronic equipment. **Mr. Aldridge** spoke about the

size and volumes of braille books it took to produce one regular book. He stated he firmly believed in the use of high tech equipment to teach children braille.

**Linda Hurlock, Braille Transcriber**, informed the Committee that those people that had learned braille at an early age were better off. She continued that for the blind not knowing braille was like everyone else not knowing how to read. **Ms. Hurlock** urged the Committee not to leave the blind children behind, to have braille available for them and urged their support of HB 572.

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**Dan Burke, Board Member, Montana Association for the Blind, Missoula**, stated that he thought they were at the dawn of the golden age of braille. He went on to say that he believed that literacy was a contact sport, and braille was the only tool available for the blind. **Mr. Burke** informed the Committee of studies that had been done which indicated that those blind students that knew braille had a higher rate of employability. **Mr. Burke** explained that in his opinion the earlier a blind person learned braille the better off they were. He continued that without braille there were insurmountable barriers to cross. Mr. Burke gave a demonstration of his electronic braille device.

**Spencer Sartorius, Deputy Superintendent, Office of Public Instruction (OPI)**, stated that OPI supported HB 572. He explained that they had worked with the Sponsor to insure that the content of the bill was compatible with federal law and guidelines. **Mr. Sartorius** pointed out the importance of reading skills to future success. He went on to say that HB 572 brought needed attention to the importance of braille instruction for students with sight impairment.

**Steve Gettel, Superintendent, Montana School for the Deaf and Blind**, stated that he was there in support of HB 572. He continued talking about the need for assessment of the children to determine what their needs were. He informed the Committee that there was a protocol used by the school districts to determine which visually impaired children need braille. He related the need for someone on the assessment team to know the issues that blind children face to enable them to determine if braille would be beneficial. **Mr. Gettel** pointed out the need for increased awareness of the needs of blind children and their need to be literate. He commented on the benefits of the use of electronic equipment in learning and teaching braille.

**Terry Minow, MEA/MFT** spoke in support of HB 572 and asked for a do pass recommendation.

**REP. SCHRUMPF, HD 12, Billings,** told the Committee a story about a young student she had taught that had suffered blindness due to medical problems. **REP. SCHRUMPF** explained that with the help of learning braille this child had gone on to do very well. She urged support of HB 572.

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:**

**REP. BRANAE** asked Steve Gettel if it was a common practice for book publishers to offer electronic versions of their publications, or would it be difficult for someone to obtain a particular textbook in an electronic version. **Mr. Gettel** replied that it was not easy to get electronic versions of textbooks to use in the devices that had been demonstrated and that would print out braille.

**REP. BRANAE** asked Mr. Gettel the cost of the electronic versions of textbooks. **Mr. Gettel** responded that he did not know the exact cost. He went on to say that for fifty to one hundred dollars they could get a series on a CD that could be put in a printer and if they had the rights they could print out a text version of the material.

**REP. FRITZ** stated that she thought that everything that was talked about in HB 572 was already mandated and asked Steve Gettel to clarify it for her. **Mr. Gettel** explained that Section 2 was mandated under IDEA. He went on to say that a team would have to sit down and look at a child and determine whether or not the child would need braille. **Mr. Gettel** talked about an assessment sheet that was used to make these determinations. **Mr. Gettel** then commented on Section 4 which talked about teachers and the skills that were needed by teachers to teach braille.

**REP. FRITZ** asked Mr. Gettel if it was determined that a child should be in the regular classes, was the bill saying that the child should have braille available in those classes. **Mr. Gettel** responded that she was correct.

**REP. FRITZ** asked Mr. Gettel if he was saying that not only special education teachers but all teachers should have training in braille. **Mr. Gettel** answered that they were talking about special education teachers and explained his reasoning.

**REP. FRITZ** asked Mr. Gettel if he would have any objection to inserting the word "special education" before the word "teacher" in Section 4. **Mr. Gettel** answered that he would not have a problem with it.

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**REP. LEHMAN** asked Mr. Gettel if the formal training talked about in Section 4 of the bill would be done by "Project Outreach." **Mr. Gettel** responded that they were doing it now and OPI had staff that were also involved.

**REP. LEHMAN** asked Mr. Gettel if the bill did pass, and there was more need for qualified training staff, would they be able to budget for that extra staff. **Mr. Gettel** replied, that if in the next biennium, they were to end up with requests that exceeded their capacity to fund, they would be back the next session seeking more funding.

**REP. LEHMAN** referred Spencer Sartorius to Sections 5 and 6 of the bill relating to textbook selection preference. He asked Mr. Sartorius if the school district would have to buy the books from a publisher that provided an electronic version of the books, even though that publisher's books were not up to standard, simply because they could provide the books in an electronic form. **Mr. Sartorius** responded that he did not feel that the section in question would lock the district in. He continued that there would be many factors that a local school district could consider in text book selection.

**REP. GALVIN-HALCRO** asked Mr. Sartorius how they were going to see to it that the benchmarks established by the federal government were met by publishers who could do it today in an electronic version. **Mr. Sartorius** stated he did not have a simple answer to the question. He continued that what the school districts were to do in textbook selection was to take a look at the Montana standards that had been developed, and do their best to select those textbooks that would meet the standards.

**REP. GALVIN-HALCRO** asked Mr. Gettel how the school district would gain access to an embosser if they were fortunate enough to find textbooks in an electronic form. **Mr. Gettel** answered that he did not have an answer for the question. He went on to say, that some districts had access to co-ops, and some had their own equipment. **Mr. Gettel** stated he did not know what the cost of the equipment was.

**REP. GALVIN-HALCRO** asked Mr. Gettel if it was referenced somewhere in the bill about the scholarship funds available for

teachers to receive training in teaching braille. **Mr. Gettel** referred to Section 4 of the bill for his answer. He went on to say, that OPI had provided braille training workshops. He explained that they had been working with OPI to provide braille literacy workshops for teachers in the summer to get them the fundamentals they would need to be able to work with their blind students. He pointed out that it would be a cheap and effective way to provide training.

**REP. GALVIN-HALCRO** asked Mr. Gettel if a teacher could take the course for university credit. **Mr. Gettel** answered that on their campus they had a teacher that was offering the course for university credit.

**REP. GALVIN-HALCRO** asked Mr. Gettel if he had any problem in including the words "special education" before the word "teacher" in Section 4. **Mr. Gettel** replied that he did not have a problem with the inclusion of "special education."

**Closing by Sponsor:**

**REP. LEWIS** stated it was important to do what they could to insure that blind youngsters in the school system would have the opportunity for a full and complete education. He continued that in order to provide that education they would need to make sure that the resources were available to do so. **REP. LEWIS** pointed out that the earlier these children begin to learn braille the better their chances are in the future. He asked for the Committee's support of HB 572.

***{Tape: 2; Side: A; Approx. Time Counter: 0 - 16.1}***

**EXECUTIVE ACTION ON HB 573**

**Motion:** **REP. LEHMAN** moved that **HB 573 DO PASS.**

**Motion:** **REP. GALVIN-HALCRO** moved **TO AMEND HB 573.**

**EXHIBIT** (edh35a01)

**Discussion:**

**Eddye McClure, Legislative Services,** explained the amendment to the Committee.

**Vote:** Motion carried 14-0 by voice vote with **REPS. BALLANTYNE** and **SCHRUMPF** voting by proxy.

**Discussion:**

**REP. WAGMAN** informed the Committee he was in favor of the bill after having talked to a local doctor regarding the injecting of glucagon.

**REP. LAKE** expressed his concern for the use of the word of "negligence" in the bill.

**REP. LEHMAN** stated that he felt that by using the term "negligence" in the bill they were leaving the school districts open to litigation.

**REP. MCKENNEY** spoke in favor of HB 573.

**REP. FRITZ** declared that she felt HB 573 was a good bill from a teachers standpoint.

**REP. LAWSON** stated that he supported HB 573 as the State was not telling anyone anything they were just allowing the parent to designate someone to help them out. He went on to say that it gave power to the parents and increased the ability of the students to live a normal of life.

**REP. LEHMAN** reiterated his concern that passing the bill would open up the possibility of litigation and gave the example of a recent newspaper article.

**REP. WAGMAN** explained diabetes to the Committee and what could happen if a person did not receive immediate attention when they were having problems. He reiterated that he would support the bill.

***{Tape: 2; Side: A; Approx. Time Counter: 16.1 - 30.4}***

**CHAIRMAN ANDERSEN** stated that she had visited with a nurse and the one thing that the nurse pointed out was that juvenile diabetes was a volatile situation. She went on to say, that what that meant was, that it could be affected by hormones, level of activity, and what had or had not been eaten. **CHAIRMAN ANDERSEN** went on to express her concern because of the "ordinary negligence" language in the bill. She asked if that wording could be taken out of the bill.

**Eddy McClure** explained that when there was a liability issue it was referencing a mental state. She continued that negligence was a mental state, such as, knowingly and intentionally. Therefore, what was being said was that the school districts would not be liable for damages as long as they did not purposely

or intentionally do something wrong. Ms. McClure gave several examples to explain what "ordinary negligence" was.

**CHAIRMAN ANDERSEN** asked Ms. McClure why they could not use the language "did not use ordinary care." **Ms. McClure** answered they could not because under civil and criminal liabilities laws the terms used were "negligence, gross negligence, knowingly and intentionally." She went on to say that was the way the court system worked. She further commented that negligence was a mental state, that it meant that they just made an error.

**CHAIRMAN ANDERSEN** stated that she still had a problem with the negligence wording as she felt it could be easy to make a mistake and judge the situation incorrectly. **Ms. McClure** answered that even if the words were not put in the bill the Court would read it in and would ask if the person had negligently messed up, intentionally messed up or did they knowingly mess up. She went on to say that in the situation suggested the court would read in common negligence.

**CHAIRMAN ANDERSEN** remarked that she felt bad about putting a school person into a situation where they might have to go to court to defend their action.

**REP. JACKSON** commented that if it were up to him the wording would have read, "That a person would not be held liable except for gross negligence." He went on to explain his reasoning.

**CHAIRMAN ANDERSEN** asked Ms. McClure if there was a way to amend the bill to say "gross negligence" rather than "ordinary negligence." **Ms. McClure** stated that it could be amended and gave an example of how it could be done.

**REP. MCKENNEY** reminded the Committee that the sponsor, **REP. PARKER**, was an attorney. He went on to say he felt that the language was the way that **REP. PARKER** intended it to be.

**REP. GIBSON** stated that she saw no point in changing the language if it said the same thing.

**Motion:** **REP. LAKE** moved to pass HB 573 for the day.

**REP. GALVIN-HALCRO** withdrew her motion to pass HB 573 as amended.

**Ms. McClure** stated that she would talk with **REP. PARKER** about an amendment to the bill.

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**ADJOURNMENT**

Adjournment: 5:05 P.M.

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REP. JOAN ANDERSEN, Chairman

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MARI PREWETT, Secretary

JA/MP

**EXHIBIT (edh35aad)**